IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3629 OF 2006.

1. Sunil Govind Bahira
2. Nitesh Kathod Bahira
3. Changdeo chander Bahira
4. Maruti Govind Bahira
5. Sachjin Deva Kambale
6. Santosh Dattaram Kambale
7. Chanda @ Chandrakant Eknath Bahira
8. Ankush @ Ankal Chandra Bahira
9. Bhanu Laxamn Bahira
10. Rajesh Chandar Bahira
11. Anil Kisan Mhatre
12. Ravindra Kisan Mhatre
13. Vinayak Kisan Bahira
14. Rafik dada Shaikh ... Applicants

V/s

The State of Maharashtra ..Respondent

Shri A.P. Mundargi,Senior Counsel with Mr. Amol Patankar for the applicants.

Mr.S.S. Pednekar, APP for the State.

CORAM : S.C. DHARMADHIKARI, J.

DATE : 17TH OCTOBER, 2006.

P.C.

. Heard Shri Mundargi, Senior Counsel appearing for the applicants.

2. The applicants are apprehending arrest in connection with C.R. No. 374/2006 registered at Panvel

Town Police Station for the offences punishable under Sections 3(1) (x) of S.C.S.T. (Prevention of Atrocities Act) and under Sections 323, 143,144, 147, 148, 149 of Indian Penal Code. They had applied for anticipatory bail but their application was rejected by the trial Judge.

3. It is not in dispute that the elections to the Panvel Municipal Council are due in December, 2006. The two main contestants at the said elections are persons belonging to Congress-I party and Peasant and Workers party (PWP). The normal scenario on the eve of elections is clashes between these main contestants. The C.R. is registered by the complainants who are belonging to one group alleging attack and assault on them by persons belonging to other political out fit.

4. I have heard the parties at length. I have perused the FIR.

5. To my mind, upon reading of the same it does not appear that prima facie any offence is committed under the Atrocities Act. Since this is the position the embargo placed by Section 18 of the Atrocities Act would

not be attracted. As far as the offences alleged under Indian Penal Code are concerned, it appears that the clashes took place. The workers of both political groups attacked each other. To my mind considering the nature of the injuries and the weapons, it is but natural that both sides have exaggerated the version. One political out fit is blaming the other. It is apparent that the anticipatory bail application was opposed on the ground that the complaint would make out a case under section 326 of IPC.

6. However, my attention is invited to the fact that persons apprehending arrest in one C.R. have also registered another C.R. While one group alleges that offences are punishable under Section 323 of IPC, the other group normally would exaggerate and that is how section 326 has been added.

7. I have perused the FIR in the other matters, as well. The trial Judge was greatly influenced by the fact that provision of the Atrocities Act being applied and at the interim stage itself, he has rejected the application.

8. Ad interim order granted by this Court has been continued and parties have also reported to the police station concerned as and when summoned. It is in these circumstances, and on account of the ensuing elections that I find prima face substance in the contention of Shri Mundargi that the complaint is lodged out of political rivalry between two parties. Both sides have pending cases against each other. With stringent conditions being imposed the application can be granted. Hence, the following order:-

i) In the event of the arrest of the applicant in connection with C.R. No. 374/2006 registered with Panvel Town Police Station, the applicants shall be enlarged on bail in the sum of 5000/- with one or two sureties each in the like amount.

ii) The bail is granted subject to condition that the applicants shall report to Panvel Town Police station on every Tuesday morning between 10.00 and 12.00 till the 23rd November, 2006.

iii) Bail is granted subject to condition that the applicants shall not, directly or indirectly, make any

inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. The applicants shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the applicants only till charge sheet is filed. Thereafter, they will be free to apply to the appropriate Court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C. DHARMADHIKARI, J.)